IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.MC.No. 2679 of 2007()

CC.180/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOTTARAKKARA

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CRIME NO.234/2004 OF KOTTARAKARA POLICE STATION

PETITIONER: ACCUSED

SUJITH @ SUNI,
S/O SUGANTHI BHASKARAN,
AGED 23 YEARS, SUNIL BHAVAN,
MYLAMKULAM MURI, KALLUMMOODU,
PUTHOOR, KOTTARAKARA.

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY ITS
DIRECTOR OF PUBLIC PROSECUTION, HIGH COURT OF
KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KOTTARAKARA POLICE STATION,
KOTTARAKARA.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2679 Of 2007

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Dated this the 22nd day of August, 2007

ORDER

Petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.452 IPC. According to the petitioner all other offences are bailable and compoundable, but the offence under Sec.452 IPC is non-bailable and non-compoundable. The petitioner was enlarged on bail at the crime stage. The petitioner has not received any notice and was unaware of the pendency of the proceedings. Cognizance has been taken and the case has been registered. The same is pending as C.C.No.180/2006 before the Judicial First Class Magistrate Court-1, Kottarakara.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. He is willing to apply for composition. But he apprehends that his applications may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. The petitioner can of course report composition of the compoundable offences. The petitioner will certainly be entitled to contend that no charge is liable to be framed for any non-compoundable offences. Such contentions and prayer for composition must be considered by the learned Magistrate expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE